

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Civil Action No. 1:15-CV-1063

ACTION NC, DEMOCRACY )  
NORTH CAROLINA, NORTH )  
CAROLINA A. PHILIP RANDOLPH )  
INSTITUTE, SHERRY DENISE )  
HOLVERSON, ISABEL NAJERA, )  
and ALEXANDRIA MARIE LANE, )

Plaintiffs, )

v. )

KIM W. STRACH, in her official )  
capacity as Executive Director of the )  
North Carolina State Board of )  
Elections, )

RICK BRAJER, in his official )  
capacity as Secretary of the North )  
Carolina Department of Health and )  
Human Services, )

KELLY THOMAS, in his official )  
capacity as Commissioner of the )  
North Carolina Division of Motor )  
Vehicles, and )

NICKY TENNYSON, in his official )  
capacity as Secretary of the North )  
Carolina Department of )  
Transportation, )

Defendants. )

**DEFENDANTS BRAJER, THOMAS,**  
**AND TENNYSON'S MOTION TO**  
**DISMISS**

Defendants Rick Brajer, in his official capacity as Secretary of the North Carolina Department of Health and Human Services; Kelly Thomas, in his official capacity as Commissioner of the North Carolina Division of Motor Vehicles; and Nick Tennyson, in his official capacity as Secretary of the North Carolina Department of Transportation (collectively “Moving Defendants”), file this Motion to Dismiss plaintiffs’ Complaint pursuant to the Eleventh Amendment to the United States Constitution and Rule 12(b)(6) of the Federal Rules of Civil Procedure. Defendants Brajer, Thomas, and Tennyson have contemporaneously filed a memorandum of law in support of this motion.

WHEREFORE, Defendants Brajer, Thomas, and Tennyson respectfully request that this Court dismiss all claims asserted against them in this action.

Respectfully submitted this 17th day of March, 2016.

OGLETREE, DEAKINS, NASH  
SMOAK & STEWART, P.C.

/s/ Thomas A. Farr

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DOT Defendants*

## **CERTIFICATE OF SERVICE**

I, Thomas A. Farr, hereby certify that I have this day electronically filed the foregoing **MOTION TO DISMISS** with the Clerk of Court using the CM/ECF system which will provide electronic notification of the same to the following:

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This, the 17th day of March, 2016.

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